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DEPT FOR WHA/CEN (JENNIFER VANTRUMP)

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SUBJECT: CCJ MAY BECOME BELIZE'S FINAL APPELLATE COURT

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Summary  
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¶1. On June 19, 2009, Prime Minister Dean Barrow proposed a bill to the House of Representatives for a constitutional amendment that would replace the Privy Council in London as the final appellate court for Belize with the Caribbean Court of Justice (CCJ). This proposal is in keeping with the obligation of member states of the Caribbean Community (CARICOM) to establish a Caribbean Court of Justice. The CCJ is vested with final appellate jurisdiction to hear appeals from Caribbean domestic courts, as well as with original jurisdiction to adjudicate disputes among member states of the Caribbean Community. While the majority of CARICOM Members have accepted the CCJ's original jurisdiction, only Barbados and Guyana have to date accepted the more controversial appellate jurisdiction.

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CCJ to become Belize's final appellate court  
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¶2. On June 19, Prime Minister Dean Barrow introduced a bill for a Seventh Amendment to the Constitution in the House of Representatives. One of the proposals in the bill is to replace the Privy Council in London with the Caribbean Court of Justice as the final appellate court for Belize.

¶3. Currently, there is a 90-day period for national consultations and the submission of comments by the general public. The bill must be passed by both the House of Representatives and the Senate prior to its final entry into law. Final passage of the bill is expected later in the year. After successful passage, Belize will be the third Caribbean nation to accept the CCJ's appellate jurisdiction. Belize's proposal marks a milestone in the fulfillment of its obligations as a member of the regional integration initiative of the Caribbean Community (CARICOM). The bill currently rests with the Constitutional and Foreign Affairs Committee, which has the ability to recommend changes. It is possible that national consultations could result in alterations to the bill.

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The Caribbean Court of Justice  
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¶4. The Caribbean Court of Justice is one of the main institutions established to ensure the success of the CARICOM Single Market and Economy. The CCJ is a regional judicial tribunal which was established on February 14, 2001 and inaugurated on April 16, 2005 in Port of Spain, Trinidad and Tobago.

¶5. It is expected that the CCJ will fulfill the dual role of uniting national courts under one judicial system and establishing an international court to ensure effective implementation of the CARICOM Revised Treaty. The CCJ is vested with an appellate jurisdiction to hear appeals from domestic appellate courts, as well as with original jurisdiction to adjudicate disputes among Member States of the Caribbean Community. While twelve CARICOM Member States have signed on to the Original Jurisdiction of the CCJ, to date only two States, Barbados and Guyana, have embraced its more controversial Appellate Jurisdiction.

¶6. The CCJ is meant to replace the Appellate Jurisdiction of the

Judicial Committee of the Privy Council in the United Kingdom as the final court of appeal for Member States. The CCJ has been instrumental in developing Caribbean jurisprudence, evidenced by the 18 cases which have come before this court since 2005. The cases the Court has heard range from murder and the death penalty on the criminal side, to civil cases involving title to land, defamation, and matrimonial property. The CCJ has also heard a number of cases challenging the power of the State acting through services commissions and other government agencies.

¶7. It is expected that the CCJ's original jurisdiction will facilitate the development of Caribbean Community law. In this regard, the CCJ is accorded compulsory and exclusive authority to hear disputes relating to the interpretation and application of the Revised Treaty of Chaguaramas. As a consequence, when a national court or tribunal is seized of an issue involving the Revised Treaty, that national court or tribunal must refer the question of Treaty interpretation or application to the CCJ for determination. The CCJ allows for proceedings to be instituted either between Member States or between a national and another Member State, as well as providing for third party intervention.

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Comment  
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¶8. Passage of this bill would mark a significant milestone in Belize's commitment to CARICOM. The movement away from the Privy Council could also signal a change in penalties for capital cases, as the CJJ accepts the death penalty. However, while the movement to the CCJ seems to have public support, the bill, as it was submitted, also contains provisions for other amendments to the Constitution. Some of the more controversial sections relate to allowing Members of the National Assembly to have dual citizenship, and to not require the Attorney General to be a member of the National Assembly. There is a possibility that if the bill goes up for a vote unchanged, one of these elements could derail the bill; however, the UDP majority in both houses makes this unlikely.

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